



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

MEH:ddj

Docket No: 2547-00

1 August 2000

[REDACTED]

[REDACTED]

This is in reference to your application for correction of your deceased spouse's naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 1 August 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your spouse's naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinion furnished by BUPERS memorandum of 20 June 2000, a copy of which is attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the advisory opinion. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosure



DEPARTMENT OF THE NAVY
NAVY PERSONNEL COMMAND
5720 INTEGRITY DRIVE
MILLINGTON TN 38055-0000

20 Jun 00

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Via: Assistant for BCNR Matters (PERS-OOZCB)

Subj: COMMENTS AND RECOMMENDATION ICO [REDACTED]

Ref: (a) BCNR memo of 18 Apr 00
(b) DOD Financial Management Regulation (Volume 7B)

Encl: (1) [REDACTED] Survivor Benefit Plan
Election Certificate dtd 18 Apr 78

1. Per reference (a), recommend BCNR not correct PO2 [REDACTED] record to reflect that he enrolled in the Survivor Benefit Plan (SBP) prior to transferring to the Retired List on 24 August 1978.

2. The recommendation is based on the following:

a. [REDACTED] transferred to the Retired List on 24 August 1978. Per enclosure (1) he declined enrollment on 18 April 1978 and Mrs. [REDACTED] acknowledged his declination. He died on 2 March 1999.

b. Per reference (b), the decision to participate or not to participate in SBP is irrevocable.

c. PO2 [REDACTED] received a Retired Accounts Statement (RAS) each time there was a change in his retired pay (at least once a year). This statement identified him as a non-participant in SBP, and he took no action to request participation. Additionally, Petty Officer Lampkin had an opportunity to enroll in SBP during the widely publicized 31 October 1981 - 30 September 1982 and 1 April 1992 - 31 March 1993 open seasons; he did not enroll. The *Shift Colors* (a quarterly newsletter), which Petty Officer Lampkin received, routinely has information regarding SBP, yet he apparently sought no information regarding enrollment.

M. P. Wardlaw
M. P. WARDLAW

Head, Navy Retired Activities
Branch (PERS-622)